

## **REMARKS**

Applicant respectfully requests the Examiner's reconsideration of the present application. Claims 1, 16 and 22 have been cancelled. Claims 2, 6-11, 13-15, 17-21 and 23-27 have been amended. New claims 28-35 have been added. Therefore, claims 2-15, 17-21 and 23-35 are presented for examination.

### **Claim Amendments**

Applicant has amended the claims to more particularly point out what Applicant regards as their invention. No new matter has been added as a result of these amendments.

### **Rejections Under 35 U.S.C. §101**

Claims 1-15 stand rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter. Applicant respectfully submits that independent claim 2 has been amended to recite the limitation of performing a search on a server in response to a query. Applicant submits that since the claim recites performing a search on a server, the claimed invention applies, involves, uses, or advances the technological arts. Accordingly, Applicant requests that the rejection under 35 U.S.C. §101 be withdrawn.

### **Rejections Under 35 U.S.C. §102**

#### *Ginter*

Claims 1, 6-9, 11-17, 19, 21-23, 25 and 27 stand rejected under 35 U.S.C. §102(e) as being anticipated by Ginter et al., U.S. Patent Application Publication No. US 2003/0163431 A1 ("Ginter"). Applicant respectfully submits that the present rejection is moot, since independent claims 1, 16 and 22 have been cancelled. Additionally, dependent claims 6-9, 11-15, 17, 19, 21, 23, 25 and 27 have been amended to depend from now independent claims 2, 18 or 24, and are argued below.

## **Rejections Under 35 U.S.C. §103(a)**

### *Ginter in view of Hulls*

Claims 2-5, 10, 18, 20, 24 and 26 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Ginter in view of Hulls et al., U.S. Patent Publication No. US 2001/0032229 A1 ("Hulls"). Ginter and Hulls are references under 35 U.S.C. §102(e) based on their publication after Applicant's filing date, and accordingly Applicant reserves the right to swear behind Ginter and/or Hulls at a later date. Applicant notes that claims 6-9, 11-15, 17, 19, 21, 23, 25 and 27 have been amended to depend from independent claims 2, 18 and 24, and accordingly are argued below. Applicant respectfully submits that claims 2-15, 17-21 and 23-27 are patentable over the combination of Ginter and Hulls.

Ginter is directed to systems and techniques for secure transaction management of content. Hulls discloses a system for interaction between multiple parties (e.g. sellers, buyers, and agents) to complete commercial transactions on the World Wide Web. A seller process is described with reference to Figures 24 and 25 of Hulls. The seller may use menus to categorize the item for sale, or may provide a written description of the item for sale. The user then submits the description of the item for sale to a site computer. The site computer searches a register for want ads and reports any matches to the seller's described item which is for sale. If a match is found, the seller is given the option to contact a potential buyer, as well as the option to list the seller's request on a for sale register. (Hulls, 0035-0036, Figs. 24 and 25).

Independent claims 2, 18 and 24, as amended, each include the limitation of receiving a query from the seller for a request from the buyer for digital content having user-specified criteria. The Examiner has admitted that Ginter fails to disclose this limitation. (Office Action, p.7) Applicant respectfully submits that Hulls also does not teach or suggest this limitation. Hulls discloses that the seller submits a specific description of an item for sale by the seller, e.g. category, specification sheet, description field. (Hulls, 0035). Referring to Figure 25, each of the questions asked of the Seller are directed to describing the item the seller wants to sell, e.g. what is the age/breed/color/asking price of the item you are selling. However, Hulls does not teach or suggest that the seller submits a query for a request from a buyer, as claimed.

Therefore, Hulls does not teach or suggest the missing limitation. Accordingly, Applicant respectfully submits that independent claims 2, 18 and 24 and claims 3-15, 17-19, 21, 23 and 25-27 that depend from them, are not rendered obvious by the combination of Ginter and Hulls. Accordingly, withdrawal of the rejection is respectfully requested.

### **New Claims**

Applicant has added claims 28-35. Applicant respectfully submits that the newly added claims are patentable for at least the reasons discussed above for independent claim 2.

### **Conclusion**

Applicant respectfully submits that in view of the amendments and discussion set forth herein, the applicable rejections have been overcome and the pending claims are in condition for allowance.

If the Examiner determines the prompt allowance of the claims could be facilitated by a telephone conference, the Examiner is invited to contact Scott Heilesen at (408) 720-8300.

Authorization is hereby given to charge our Deposit Account No. 02-2666 for any charges that may be due. Furthermore, if an extension is required, then Applicant hereby requests such extension.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Date: 4/21, 2004

  
Jeffery Scott Heilesen  
Reg. No. 46,765

12400 Wilshire Blvd.  
Seventh Floor  
Los Angeles, CA 90025  
(408) 720-8300